IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 7.9.2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.14130 of 2004

Susira Industries
by its proprietor S.Seetharamih
G-16, Ambattur Industrial Estate,
Ambattur, Chennai - 58 .. Petitioner

vs.

1. The Commercial Tax Officer (FAC)
   Ambattur Assessment Circle,
   Chennai - 600 049

2. The State of Tamil Nadu
   represented by the Secretary,
   Commercial Taxes
   and Religious Endowments,
   Fort St. George,
   Chennai - 600 009 .. Respondents

This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of declaration to declare that Section 2(c), Section 2(g), 3 and Section 12 of The Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001 as unconstitutional violative of Art.14, Art.19(1)(g),265 301,303 and 304 of the Constitution insofar as the petitioner is concerned.

For petitioner : Mr.N.R.Rajagopalan
For respondents : Mr.Shanmugasundaram
Government Advocate

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O R D E R

Mr.Shanmugasundaram, the learned Government Advocate, takes notice for the respondents.

2. With the consent of the learned counsels appearing on either side, the writ petition is taken up for final disposal.

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3. The learned counsel appearing on behalf of the petitioner has submitted that the issue involved in the present writ petition is covered by an order of a Division Bench of this Court, dated 22.3.2007, made in ITC LIMITED Vs. STATE OF TAMIL NADU AND ANOTHER ((2007)7 VST 367 (Mad)) wherein the constitutional validity of the Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001, and the various notifications issued by the State Government in exercise of the powers conferred by Section 15 of the Act was questioned.

4. The Division Bench, by its order, dated 22.3.2007, had held, in paragraph 48 of the said order, that "the levy of entry tax on goods imported from other states to the State of Tamil Nadu and from abroad is not compensatory in nature, since the State Government could not discharge its burden by placing materials before the Court that payment of levy of entry tax is reimbursement/recompense for the quantifiable/measurable benefit provided or to be provided to the tax payers. The impugned levy imposing entry tax being discriminatory is also violative of article 304 (a) of the Constitution. We, therefore, hold that the demand and collection of entry tax under the Tamil Nadu Tax on Entry of Goods into Local Areas Act, 2001, is illegal, unauthorised and violative of article 301 of the Constitution. The writ petitions are allowed as above and the levy and demand notices issued would stand quashed."

5. Mr.Shanmugasundaram, the learned Government Advocate, appearing on behalf of the respondents had submitted that the issue that has arisen for consideration in the present writ petition is covered by the order passed by the Division Bench.

6. On such submissions being made by the learned counsels appearing on behalf of the petitioner as well as the respondents, the writ petition is allowed, in view of the said order of the Division Bench of this Court, dated 22.3.2007.No costs. Consequently, connected W.P.M.P.No.16680 of 2004 is closed.

सत्यमेव जयते

sd/-
Asst.Registrar

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/true copy/

Sub Asst.Registrar

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To

1. The Commercial Tax Officer (FAC)
   Ambattur Assessment Circle,
   Chennai - 600 049

2. The Secretary,
   The State of Tamil Nadu
   Commercial Taxes
   and Religious Endowments,
   Fort St. George,
   Chennai - 600 009

+ 1 cc to Govt.pleader SR.NO.56182

NSM(CO)
RD 20.9.07

W.P.No.14130 of 2004

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